

STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY :
AND MUNICIPAL EMPLOYEES, AFL-CIO, :
LOCAL #298 :

CASE NO. A-0456:1

v. :

DECISION NO. 80015

CITY OF MANCHESTER, MANCHESTER WATER :
WORKS :

APPEARANCES

Representing the American Federation of State, County and Municipal Employees:

James J. Barry, Jr., Esquire, Counsel
James Anderson, President, Local #298

Representing the Manchester Water Works:

Charles Flower, Jr., Esquire, Counsel
Fred Elwell, Superintendent

BACKGROUND

In Decision No. 79033, this Board examined charges brought by the American Federation of State, County and Municipal Employees AFL-CIO, Local 298 against the City of Manchester, Manchester Water Works. The majority of the Board held in that Decision that, although certain communications from Management to employees prior to a representation election were false, there was no proof that they were harmful to the election process, and therefore sustained the results of the election and denied the request of the Union that a new election be held.

The Union requested a rehearing, which request was granted, and the Board held a rehearing at the Board offices on February 26, 1980.

FINDINGS OF FACT
AND RULINGS OF LAW

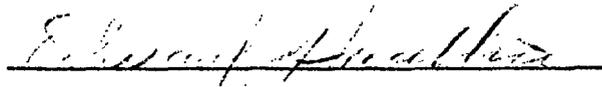
At the hearing, additional testimony was presented by the Union concerning their charges. However, the Board finds that no new evidence was presented. It was a restatement of the evidence previously presented and some additional testimony concerning assertions that certain employees had changed their minds because of the communications from Management. There was no direct, firsthand

evidence of these assertions, however, and the Board is unable to find on the basis of testimony before it that there was any substantial new evidence presented. In addition, the Board is unable to accept the legal arguments of the Union concerning the inherent illegality of Management communicating with employees during an election campaign. (The Board would refer to its discussion of the role of Management and labor in elections as discussed in Decisions number 79025 and 80007.)

Because of the findings in this Decision, the Board issues the following order:

ORDER

Having heard no new evidence or argument sufficient to justify overturning its previous Decision, the Board affirms Decision No. 79033.

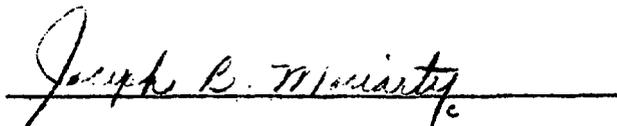


EDWARD J. HASELTINE, CHAIRMAN

Signed this 10th day of April, 1980.

Members Moriarty and Mayhew also present. Member Mayhew joins in this Decision. Mr. Moriarty concurs in part and dissents in part as stated below. Also present Executive Director, Evelyn LeBrun and Board Counsel, Bradford Cook.

Joseph Moriarty, member, concurring in part and dissenting in part: My dissent in the original case indicates that I would have reached a different decision based on the facts of this case, however, I agree with the Board that no new evidence was presented at the rehearing which provided any basis for overturning that Decision.



JOSEPH B. MORIARTY, BOARD MEMBER

Signed this 10th day of April, 1980.